

MINNESOTA DEPARTMENT OF PUBLIC SAFETY



Driver and Vehicle Services

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April 17, 2003

Exhibit Number 56
ID/Residency, Facial Image Rules
OAH Docket No. 15-2400-15360-1

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: Proposed Permanent Rules Governing Drivers' Licenses and Vehicle Records; Proof of Identity and Residency; Minnesota Rules, Parts 7410.0100; 7410.0400; 7410.0410; 7410.1810 and Repeal of 7410.1800.

Dear Librarian:

The Minnesota Department of Public Safety, Driver and Vehicle Services Division, has proposed to adopt the above titled rules. We plan to publish the notices for these rules in the *State Register* on April 21, 2003.

The Department has prepared a Statement of Need and Reasonableness on the proposed rule that is now available to the public. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library a copy of the Statement of Need and Reasonableness.

If you have any questions, please contact me at 651 296-2608.

Jane Ann Nelson

Jane Ann Nelson
Rules coordinator

Enclosure: Statement of Need and Reasonableness

Alcohol &
Gambling
Enforcement

Bureau of
Criminal
Apprehension

Capitol Security

Center for
Crime Victim
Services

Driver & Vehicle
Services

Drug Policy &
Violence
Prevention

Emergency
Management/
Emergency
Response
Commission

State Fire
Marshal/
Pipeline Safety

State Patrol

Traffic Safety

DVS
Driver &
Vehicle Services

Minnesota Department of Public Safety

Driver and Vehicle Services Division

**CERTIFICATE OF MAILING THE STATEMENT OF NEED AND
REASONABLENESS TO THE LEGISLATIVE REFERENCE LIBRARY**

**Proposed Permanent Rules Relating to Identification Documents, Minnesota Rules,
Parts 7410.0400, 7410.0410, 7410.1810 and Repeal of 7410.1800.**

I certify that on April 17, 2003, when the Statement of Need and Reasonableness became available to the public, I mailed a copy of the Statement to the Legislative Reference Library by depositing it in the State of Minnesota interoffice mail system. The copy of the Statement of Need and Reasonableness was mailed to comply with Minnesota Statutes, sections 14.131 and 14.23. A copy of the letter to the Legislative Reference Library is attached to this certificate.



Jane A. Nelson
Rules Coordinator

**STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
Driver and Vehicle Services Division**

**In the Matter of Proposed Permanent Rules
Governing Drivers' Licenses and Vehicle Records;
Minnesota Rules, part 7410.0100 Definitions; part
7410.0400 Documenting Proof of Name, Date of Birth,
Identity; part 7410.0410 Proof of Residency; part
7410.1810 Driver's License and Identification Card
Image; and Repeal of part 7410.1800 Driver's License
Photograph**

**STATEMENT OF NEED
AND REASONABLENESS**

Introduction

The permanent rules that are the subject of this proceeding are proposed to prove residency in the state, enhance security and identity features of the state-issued drivers' licenses, instruction permits, and identification cards, and address issues of fraud and misrepresentation in the application process.

The Minnesota Department of Public Safety (Department) proposes to promulgate these rules under the permanent rulemaking procedures in Minnesota Statutes, Chapter 14 and Minnesota Rules, Chapter 1400.

Need for Proposed Rules

The Department of Public Safety's mission, as stated in its *2004-2005 Biennial Budget Agency Profile (DPS exhibit 1)*, is to keep Minnesotans safe and provide world-class customer service. This mission is achieved through three primary functions: service, enforcement, and prevention.

The Department, through its Division of Driver and Vehicle Services (DVS), is charged, in part, with issuing drivers' licenses and instruction permits. In addition to conferring driving privileges, these documents are routinely used by the Department, financial institutions, retailers, law enforcement, and other entities to establish the cardholder's identity. (*DPS exhibit 2*)

DVS is also required to issue identification cards to qualified applicants. Minnesota Statutes, section 171.07, subdivision 3 prohibits the Department from issuing an identification card to an individual who has a driver's license, other than a limited license. These proposed rules are needed to protect the integrity of Minnesota's drivers' licenses and identification cards for the benefit of the cardholders and those who rely upon the cards' authenticity.

The Department pursued exempt emergency rulemaking on this issue in 2002 (*DPS exhibits 3-8*). The rules were ruled invalid "solely on procedural grounds" by the Minnesota Court of Appeals on March 11, 2003. The court went on to say, "The seriousness of the threat of terrorism

to life, liberty, or property is beyond dispute... We hold that the DPS sufficiently demonstrated both the seriousness and the immediacy of the threat of harm the rules purportedly address." The Department is in the process of appealing the Court of Appeals' decision to the Minnesota Supreme Court.

(For ease of reading, the term "license" is used throughout this document to mean a driver's license, instruction permit, or identification card. When the content is specific to one type of state-issued document, such as an identification card, the specific term is used.)

The state's licenses are gateway documents for establishing a legitimate identity and obtaining privileges normally reserved for citizens or permanent residents of Minnesota and the U.S. With state-issued identification, people can open bank accounts, obtain credit cards, and gain entry to government buildings and airports. With a Minnesota license, people can obtain such privileges as state resident tuition reduction, health care and other social service benefits – even resident hunting and fishing licenses. In a survey commissioned by the American Association of Motor Vehicle Administrators (AAMVA) in April 2002, over eighty-three percent of all individuals polled use their driver's license daily for identification purposes in transactions and commerce including boarding a plane, renting a vehicle, cashing a check or entering a secured building.

Other states have moved rapidly to halt fraud in the licensing of drivers to protect the integrity of their state-issued documents and underlying databases. According to the Department's research, 17 states have adopted rules, issued executive orders or changes in policy, or enacted laws to strengthen documentation of proof of legal residency (including short-term admission) requirements for licenses. Nineteen other states are developing new rules or have introduced legislation to strengthen driver's license requirements as they relate to residency, legal presence and short-term admission requirements. (*DPS exhibits 9 and 10*)

U.S. states and Canadian provinces are acting independently—either legislatively or through the administrative and executive branches—to address security concerns. Among the actions taken, states that issue licenses instantly over-the-counter are considering eliminating this practice or have already done so. Issuance is being centralized to ensure the security of the document materials. In the last year, Colorado and Kentucky experienced theft of all of the issuance equipment at some of their branch offices. Some states are not issuing documents to individuals temporarily admitted into the U.S. for less than 90 days; others are not issuing licenses if the authorized admission is for less than a year. At least 17 states have tightened their residency policies, tying the issuance of the state license to federal legal presence and authorized admission standards. Verification of presented documents, particularly the social security card, is becoming standard practice in many states. In Pennsylvania, a probe of social security numbers and names on state-issued documents was launched and thousands of fraudulent social security numbers were found in driver's license records. Verification of social security numbers is of particular importance for commercial drivers, who can obtain an endorsement to haul hazardous materials.

The individual action of these states is prompted by the fact that the reliability of the entire driver's license system has been jeopardized by a few states that have lax security standards or issue licenses to individuals who are illegally present in the country. Since national standards for identification do not exist, licenses from other states are not reliable as proof of identity and legal presence. Minnesota cannot return to a policy where the state relies on license reciprocity among the jurisdictions of Canada and U.S. (*DPS exhibits 11 and 12*). The issuance policies of other jurisdictions are not substantially the same as Minnesota's standards in all cases. (*DPS exhibits 7 and 13*)

The Department has been vigorously implementing anti-fraud initiatives to combat trends associated with identity theft, especially in light of the events of September 11, 2001. The Federal

Trade Commission reports that incidents of identity theft and fraud at the national level are expected to more than triple from 500,000 in the year 2000 to 1.7 million by 2005.

The Department is currently holding over 14,580 licenses in suspense because suspected fraudulent documents were presented at the time of application. This number represents applications made over the last five years. In 2002, 2,635 licenses were held in suspense for this reason; of these, only 355 were from the last four months of the year when the exempt rules were in effect. In all cases, applicants are notified of the application being held in suspense and they are given the opportunity to present further documentation or further information in an administrative hearing so that the license can be issued. These statistics represent applications where the applicant provided no further information.

The license is a key link to public safety, privacy and national security. For the safety, security and peace of mind of its residents, Minnesota must produce a recognizably reliable source of identification in issuing licenses and, at the same time, reduce exposure to identity theft and fraud. To protect the integrity of Minnesota licenses, the Department believes it must make permanent changes that strengthen identity and residency requirements. (*DPS exhibits 7 and 13*)

Residency and Federal Legal Presence.

The Department currently accepts a variety of primary and secondary identity documents along with an attestation of a residence address in the state as part of the application process for a driver's license, permit, or state-issued identification card.

Minnesota Statutes, section 171.07, subdivision 3 requires a residence address when making application for a state identification card. Minnesota Statutes, section 171.03 distinguishes between residents and nonresidents of the state and compels licensure of drivers who are residents of the state. Nonresidents are permitted to operate a motor vehicle in the state when in possession of a valid license from the individual's home state or country. Visitors to the state – whether here for business, travel, medical treatment, or other purposes – are not limited to a specific time period to use the home state or country license; the only stipulation is that they do not declare permanent state residence. Though nonimmigrants may choose to obtain a Minnesota license, they are not required to do so. It is not a right, but a privilege, to be issued a license.

An individual can present a license or identification card from another U.S. state or Canadian jurisdiction and declare a residence address in the state. As a result, many Minnesota licenses and state identification cards were issued to persons without authorization to be present in the U.S. or whose authorization had expired.

Department staff have documented many cases where the applicant first applied in Minnesota, was denied a license because of insufficient documentation of identity, only to return within days or weeks with a license from another state that did not have strict identification requirements or whose requirements did not include proof of residency or legal presence. This practice not only circumvented Minnesota's identity and residency requirements, it undermined federal legal presence and authorized admission standards.

In November 2001, Kimberly Weissman, spokesperson from the Immigration and Naturalization Service (INS) of the U.S. Department of Justice, stated that as many as three million foreign nationals were believed to be in the U.S. on expired visas. Thousands of temporary visitors reportedly stay in the U.S. every year without lawful authorization because they are not easily identifiable, limiting the ability to monitor their movements. This "stay without legal authorization" may be well beyond the time period of authorization because these visitors are able to gain access to "legal privileges" by using a state-issued driver's license or identification card, allowing them to meld into society. (*DPS exhibit 14*)

In its report to Congress entitled *Countering the Changing Threat of International Terrorism*, the National Commission on Terrorism stated, "on an average day, over one million people enter the U.S. legally and thousands more enter illegally." (*DPS exhibit 15*)

Need to Protect Public Safety

The proposed rules make state policy on residency consistent with federal residency and legal admission policy. An individual with no status as a permanent U.S. resident would not be eligible for a state-issued license inferring permanent residency. An individual with short-term admission status granted by the U.S. would be issued a license that displays the end date of the admission period authorized by the U.S. government. The license will be canceled if the individual is unable to present documentation that indicates federal approval to remain in the U.S. beyond that date.

The short-term admission status provision of part 7410.0410, subpart 6 provides federal and state law enforcement and government authorities with a means to identify the authorized length of stay for a nonimmigrant and to hold nonimmigrants residents to the same standards as permanent residents with driver's licenses and identification cards. The Department has carefully researched the standards used by the U.S. Department of Justice (DOJ) to allow indefinite authorized presence status and lawful short-term admission to the U.S. On May 31, 2002, INS Deputy District Director John Klow reviewed the identification requirements contained in these rules to ensure their accuracy in terms of documentation and status categories. (The functions of the INS were recently transferred to the newly-formed U.S. Department of Homeland Security (DHS)).

The Department is proposing rules that link the ability to declare residency in the state to an individual's authorized legal presence in the country. An individual who is not legally present – who has entered the country without permission, or has stayed beyond the period authorized by federal authorities – will not be granted a license. The documents accepted as proof of state residency correspond with federal admission and authorized presence standards. It is necessary and reasonable to link state residency to federal legal presence standards to ensure that the issuance and subsequent use of state identity documents do not undermine national security or federal supremacy to administer immigration law. (*DPS exhibit 7*) Minnesota is not alone in taking this position. In a 2002 veto message, Governor Gray Davis of California rejected a bill that would have allowed thousands of illegal immigrants to obtain a license, citing national security concerns. (*DPS exhibit 16*)

Legal Admission Status.

The DHS allows persons to enter the U.S. under a number of visa or admission statuses. Admission may be under a permanent resident or indefinite status – admission status categories that are granted to immigrants and refugees. These proposed rules do not change the requirements for qualified legal immigrants and refugees to obtain a Minnesota driver's license, permit or state-issued identification card. The identity document they present allows for issuance of a four-year state license or identification card, subject to renewal. Because of their permanent or indefinite U.S. resident status, a declaration of a residence address will be sufficient at the time of application along with presentation of the appropriate primary and secondary identity documents. (*DPS exhibit 17*)

Other individuals have been given an admission status only for a short period of time; these individuals are "nonimmigrants," not U.S. citizens or immigrants. The various short-term federal admission status categories may range from as little as an eight-hour leave from a ship in the Duluth harbor, to several years as a student or corporate employee. Several short-term admission

categories do not permit the individual to declare U.S. residency. The federal document authorizing admission is for a temporary period and usually indicates a date by which the authorized admission expires. The exception is a "duration of status" authorization, which is addressed in the proposed rules. Department practice has been to accept an application and an attestation of a residence address in the state regardless of the admission or resident status indicated on the federal identity document presented. This practice has created confusion between federal and state authorities and the public. It provides a significant opportunity to circumvent the intent of state and federal laws and rules and puts public safety at risk.

The proposed rules bring state policy on residency into line with federal residency and temporary admission standards. An individual with no status as a permanent U.S. resident would not be eligible for a state-issued identity document inferring permanent state residency and automatic renewal of the state document every four years. An individual with short-term admission status granted by the U.S. would be issued a license with a status check date after which, in the absence of evidence that the admission period has been extended or the admission status has changed, the license would be canceled.

Coordination with Federal Standards.

The National Strategy for Homeland Security (*DPS exhibit 18*) reports that the state and federal partnership:

[P]rovides a unique opportunity...the opportunity comes from the expertise and commitment of local agencies and organizations involved in homeland security. The challenge is to develop interconnected and complementary systems that are reinforcing rather than duplicative and that ensure essential requirements are met...

The licensing of drivers by the 50 states, the District of Columbia, and the United States territories varies widely... While the issuance of driver's licenses falls squarely within the powers of the states, the federal government can assist the states in crafting solutions to curtail the future abuse of driver's licenses by terrorist organizations. Therefore, the federal government in consultation with state governmental agencies and non-governmental organizations should support state-led efforts to develop suggested minimum standards for driver's licenses, recognizing many states should and will exceed these standards.

In determining the policy for applying for and issuing a license to a temporary resident, the Department coordinated its efforts with the INS of the DOJ. The Department and INS officials jointly reviewed federal standards used by the DOJ to allow indefinite authorized presence status and lawful short-term admission to the U.S.

The DOJ filed an opinion that grants local and state law enforcement officers the authority to enforce federal immigration laws, an opinion endorsed by the 10th Circuit Court of Appeals. On May 14, 2002, President George W. Bush signed the Enhanced Border Security and Visa Entry Reform Act. This law directs the U.S. Attorney General to develop an electronic means of verifying and monitoring foreign students, to exchange visitor information, and ensure that refugees and asylees are issued federal work authorization documents that contain fingerprints and photo identification. The bill was passed by Congress, according to Senator Edward Kennedy, to improve the nation's ability to screen foreign nationals to deter potential terrorist attacks.

The September 11th hijackers were described as initially entering the country, some through fraudulent means, establishing an identity through state-issued documents, then blending into society in order to plan their attack. (*DPS exhibits 19 and 20*) The Department must adopt these rules to improve our coordination and dissemination of information with federal and state law enforcement agencies. (*DPS exhibit 21*)

Statutory authority

The Department relies on the following statutory authority for the proposed permanent rules.

Minnesota Statutes, section 14.06, requires that:

(a) Each agency shall adopt rules, in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

(b) Upon the request of any person, and as soon as feasible and to the extent practicable, each agency shall adopt rules to supersede those principles of law or policy lawfully declared by the agency as the basis for its decisions in particular cases it intends to rely on as precedents in future cases...

Minnesota Statutes, section 171.01, subdivision 9 gives the Department authority to administer the definition of nonresident of the state and defines nonresident as “every person who is not a resident of this state.”

Minnesota Statutes, section 171.01, subdivision 14 gives the Department authority to address temporary license issuance since it includes within the definition of license “any temporary license, permit or provisional license.”

Minnesota Statutes, section 171.03 gives the Department authority to administer law with respect to persons who are exempt from licensure.

Minnesota Statutes, section 171.04 gives the Department responsibility to administer law relating to persons who are not eligible for drivers’ licenses.

Minnesota Statutes, section 171.06, requires the Department to administer law relating to applications and fees for licenses, permits, and identification cards.

Minnesota Statutes, section 171.061, subdivision 6 requires that “the commissioner shall adopt rules that prescribe... (3) standards for the uniform administration of laws and rules governing the receipt of applications and fees for applications...(5) standards for submitting applications including valid forms of identification, depositing funds, maintaining records...”

Minnesota Statutes, section 171.07, subdivision 1 compels the commissioner to issue a license with “a description of the licensee in such manner as the commissioner deems necessary...”

Minnesota Statutes, section 171.071, subdivision 1 allows the commissioner of public safety to “adopt rules to permit identification on a driver's license or Minnesota identification card in lieu

of a photograph or electronically produced image where the commissioner finds that the licensee has religious objections to the use of a photograph or electronically produced image.”

Minnesota Statutes, section 171.071, subdivision 2 allows certain headwear to be permitted. If an accident involving a head injury, serious illness, or treatment of the illness has resulted in hair loss by an applicant for a driver's license or identification card, the commissioner shall permit the applicant to wear a hat or similar headwear in the photograph or electronically produced image. The hat or headwear must be of an appropriate size and type to allow identification of the holder of the license or card and must not obscure the holder's face.

Minnesota Statutes, section 171.14 gives the commissioner “authority to cancel any driver's license of any person who, at the time of the cancellation, would not have been entitled to receive a license under the provisions of section 171.04.”

Authority for the proposed rules is also found in Minnesota Statutes, section 299A.01, subdivision 7. This law adopted in Laws 2000, chapter 445, article 1, section 2, provides authority for rules adopted under section 299A.01, subdivision 6, paragraph (a) to remain in effect on and after July 1, 1997, until further amended or repealed.

Section 299A.01, subdivision 6, paragraph (a) in effect in 1996 provided general authority for the commissioner of public safety to adopt administrative rules to carry out those duties and functions administered by the division of motor vehicles and the division of drivers' licenses which were transferred to the department of public safety in 1969. The divisions of motor vehicles and drivers' licenses were subsequently combined within the Department of Public Safety to become the Driver and Vehicle Services division.

Laws 1969, chapter 1129, Article 1, section 18 states:

All the powers and duties now vested in or imposed upon the department of highways and the commissioner of highways in regard to driver's licensing and safety responsibility as prescribed by Minnesota Statutes 1967, Chapters 169, 170 and 171, are transferred to, vested in, and imposed upon the commissioner of public safety.

The proposed rules continue to carry out the functions transferred to the Department in 1967 and contained in Chapters 169 and 171 – namely the issuance of drivers' licenses, the examination of drivers, and the refusal to issue a license as prescribed in section 171.04 for various reasons including being inimical to public safety and welfare. Rules currently adopted within Chapter 7410 cite to section 299A.01.

Rule promulgation process.

Request for Comment Notice. The Department published the Request for Comment on Possible Rules on this matter in the *State Register* on January 22, 2002, at 26 SR 979. The Request for Comment described the planned rules being considered by the Department.

Additional notice was provided to make the issue of possible rules on this matter known to the public. The Request for Comment notice was:

- posted on the Department Web site on January 22, 2002.

- mailed on January 17, 2002, to all parties registered with the Minnesota Department of Public Safety under Minnesota Statutes, section 14.14, subdivision 1a for purposes of receiving notice about rule activity.

- mailed on January 17, 2002, with a request to post the notice in a place accessible to the public to all appointed licensing agents, all license and identification card application and examination sites, and all deputy registrar offices. These are sites frequented by the motoring public.

- mailed on January 17, 2002, to the 87 county sheriffs.

- mailed on January 17, 2002, to the Minnesota Chiefs of Police Association with a request to convey the information electronically to their members.

A certificate of providing notice as described was prepared on January 28, 2002.

A second Request for Comment notice was prepared to address the development of rule part 7410.1810 requiring a full facial image, repeal of part 7410.1800 on Driver's License Photograph, and cancellation of the driver's license, permit, or identification card.

- The Request for Comment notice was published in the *State Register* at 27 SR 332 on Tuesday, September 3, 2002.

Additionally, the notice was

- mailed on Wednesday, August 28, 2002, to all parties on the agency rulemaking list maintained under Minnesota Statutes, section 14.14, subdivision 1a for purposes of receiving notice about rule activity.

- mailed on Wednesday, August 28, 2002, with a request to post the notice in a place accessible to the public to all appointed licensing agents, all license and identification card application and examination sites, and all deputy registrar offices. These are sites frequented by the motoring public.

- mailed on Wednesday, August 28, 2002, to all parties on an additional mailing list. These were parties who had contacted the Department after January 22, 2002, requesting notice of rulemaking activity on this matter.

- mailed on Wednesday, August 28, 2002, to the 87 county sheriffs.

- mailed and electronically mailed on Wednesday, August 28, 2002, to the Minnesota Chiefs of Police Association with a request to convey the information electronically or by newsletter to their members.

- Placed on the Driver and Vehicle Services web site on Tuesday, September 3, 2002.

A certificate of providing the notice as described was prepared on September 3, 2002.

Notice to Adopt Proposed Rules; additional notice plan. The Department plans to provide the following notice of its proposed rules.

- The Department plans to publish the Notice to Adopt the proposed rules and text of the proposed rules in the *State Register*. The description of the subject matter of the proposed rules in the Notice to Adopt will summarize the general nature of the proposed rules.

- The Notice to Adopt rules, the text of the proposed rules, and the Statement of Need and Reasonableness will be posted on the agency's web site on or before the day of publication in the *State Register*.

- The Notice to Adopt rules with a copy of the proposed rules attached will be mailed to all parties on the agency rulemaking list prepared pursuant to Minnesota Statutes, section 14.14, subdivision 1a no less than three days before publication of the proposed rules and notice are published in the *State Register*.

- The Notice to Adopt rules with a copy of the proposed rules attached will be mailed to all appointed licensing agents, examination sites, and deputy registrar offices at least three days before publication of the proposed rules and notice in the *State Register*. The notice and rules will be accompanied by a request to post the notice and proposed rules in a place accessible to the public on the date the proposed rules and notice are published in the *State Register*. These sites are frequented by the motoring public.

- The Notice to Adopt rules with a copy of the proposed rules and Statement of Need and Reasonableness will be submitted to the Office of the Governor before proposal of the rules and at least three days before publication of the notice and rules in the *State Register*.

- As required by Minnesota Statutes, section 14.116, copies of the notice, proposed rules, and Statement of Need and Reasonableness will be mailed to the chairs and ranking minority members of the of the transportation, crime prevention and judiciary committees of the Minnesota House and Senate and the transportation and public safety finance committees.

- Additional notice will be provided via a press release to all print and electronic media in the state. The release will announce the proposed rules, summarize their subject matter, indicate how and when to comment, who may be contacted about the rules, and where a copy of the notice, proposed rules, and Statement of Need and Reasonableness may be obtained. The press release will be sent electronically to the media on the Monday of publication of the notice and rule in the *State Register*.

- Additional interested parties will be mailed a copy of the Notice to Adopt and a copy of the proposed rules at least three days before publication in the *State Register*. These parties will include any persons who requested notice as a result of publication and mailing of the Request for Comment or who expressed interest or commented in response to publicity on the Department's exempt rulemaking on this matter.

- A copy of the proposed rules and notice will be sent to all county sheriffs.

- A copy of the proposed rules and notice will be sent to the Minnesota Chiefs of Police Association with a request to transmit the rule and notice electronically or by newsletter to their members.

A certificate attesting to the required and additional notice made as well as copies of the notice as mailed, the lists of parties receiving notice, the press release, and the media receiving the release will be submitted into the record on this proceeding.

Statement of Need and Reasonableness sent to the Legislative Reference Library.

A copy of the Statement of Need and Reasonableness will be submitted to the Legislative Reference Library when the document becomes available to the public (Minnesota Statutes, section 14.131.)

Fees.

The fees for drivers' licenses, permits, and state identification cards are set in Minnesota Statutes, section 171.06, subdivision 2. The proposed rules do not set any new administrative fees, however, part 7410.0410, subpart 14 clarifies that the replacement for a state document when there is a change in INS status will be the fee specified for a duplicate license or card in Minnesota Statutes, section 171.06, subdivision 2. When the card reaches its scheduled expiration date, the renewal fee will be charged.

Farming operations.

The proposed rules have no direct or substantial adverse impact on agricultural land and are not specifically designed to affect farming operations. If any impact should occur, it is no more than the impact to other industries, the community and residents of the state in general. No regulatory controls are directed at or triggered by farming operations. No additional action was taken by the Department within the meaning of Minnesota Statutes, section 14.111.

State regulatory policy.

Minnesota Statutes, section 14.002, requires that the Statement of Need and Reasonableness address "whenever feasible," how the proposed rules "emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals."

Because the proposed rules are administered by various state employees and driver's license agents, the Department must provide clear rules to ensure fair and consistent enforcement of the laws the commissioner administers.

Because the standards in part 7410.0410 are new, proposed part 7410.0410, subpart 15 provides for variance procedures and criteria under existing part 7410.0600. These are the same criteria and procedures currently applicable to part 7410.0400 that pertain to identity documents.

Regulatory analysis.

In accordance with Minnesota Statutes, section 14.131, the agency proposing rules must address the following within the Statement of Need and Reasonableness.

A description of the classes of persons that will be affected by the proposed rules, including classes that will bear the costs of the proposed rules and classes that will benefit from the proposed rules.

The proposed rules affect applicants for a driver's license, permit or state identification card. Persons who are U.S. citizens, naturalized citizens, or permanent U.S. residents such as legal immigrants and refugees will not be impacted by the proposed status check date provisions. However, these individuals, along with temporary visitors and tourists, will no longer be able to present a license or identification card from another U.S. state or Canadian jurisdiction as a stand-alone document to obtain an initial Minnesota driver's license, permit or state identification card. The rules affect those drivers who may enter the state from another state and seek Minnesota licensure or identification. Individuals coming from another jurisdiction and asserting Minnesota residency will now have to present a primary document from the amended list in part 7410.0400. These documents will verify U.S. citizenship or lawful admission status in the U.S. as well as identity. Persons who do not have certified copies of a birth certificate from a bureau of health based in the U.S. or from a U.S. embassy, will have to obtain one and will bear a cost – usually ranging from \$10 to \$15. If the individual was born in Minnesota and makes application at a site where the birth certificate is filed, no additional cost is incurred when the certificate may be readily retrieved and viewed by the official accepting the application. Persons who are not U.S. citizens but have the appropriate federally issued identity documents listed as a primary document, will not bear any additional cost at the time of initial application.

The benefits to affected parties will be a reduction in confusion between federal, state, and local law enforcement. There will be enhanced public safety and homeland security. Individuals who have no authorization to be present, reside in, or remain in the United State will not be granted a valid document that presumes valid residency in Minnesota – a state within the U.S.

The probable costs to the agency and to other agencies of the implementation and enforcement of the proposed rules and any anticipated effect on state revenue.

The Department does not perceive any impact on state revenue. Programming and other implementation costs of the exempt emergency rules were absorbed into the existing Department budget. No additional costs are anticipated to implement these rules.

Local and state health departments may experience an increase in demand for birth certificates, but the increase should not be significant. Most first time applicants for a state license or permit are U.S. born teens who already must present a birth certificate at the time of initial application and who have had to present the birth certificate to obtain a social security card and number for tax filing purposes.

A determination of whether there are less costly or less intrusive methods for achieving the purpose of the rule.

The cost of the proposed rules, both to the Department and to the public, is minimal. Changes can be implemented with existing staff and within the present approved budget.

The Department reviewed other states' initiatives related to the strengthening of residency and identity requirements to receive a license. Some states have, or are studying the addition of a biometric identifier such as a fingerprint, retinal scan, or facial recognition to the driver license system. In weighing the value of these identifiers, the Department believes that any of these system features would translate into higher fees for the card holder and would also be more intrusive than using standard residency and identity documents already issued by other governmental agencies. The Department has worked closely with federal officials to specify those documents that persons legally authorized to reside or be present in the U.S. will have or can obtain at low cost. The cost of a certified copy of a birth certificate is as little as \$10.

Though some individuals contest that the status check date could be maintained solely on the driving record, law enforcement and driver's license application staff would not have access to a visual tool to use in the administration of their duties. The status check date is similar to the medical alert identifier or limited mobility identifier that appears on some Minnesota licenses. With the medical alert identifier, which appears on the front of the card, law enforcement and emergency medical personnel are trained to recognize the indicator and seek additional medical information about the patient, such as allergies to medications or medical conditions that may not be readily apparent. The average store clerk who views the card for identification purposes does not know what the indicator means. In the same way, the limited mobility indicator provides proof to a metro transit bus driver that the cardholder qualifies for a reduced fare, but is not recognized by most others who view the card.

The Department considered various wording options before deciding upon "status check." The words "visa expiration" were considered, but were felt to be inaccurate and too specific. The phrase would not afford the cardholder the same protection of privacy that an individual with a medical alert identifier or limited mobility identifier enjoys.

A description of any alternative methods for achieving the purpose of the proposed rules that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rules.

The proposed rules represent a compromise. The Department could maintain its policy of accepting only an attestation of a residence address as the means to determine whether an individual is a resident of the state, or a nonresident, along with presentation of another U.S. state or Canadian province license or identification card. This procedure, however, has created confusion and misrepresentation.

The Department could request proof of a residence address in the state such as a rent receipt. This option was rejected because documents such as rent receipts are easy to forge or retrieve from the trash and bear no relation to whether the individual is authorized to be in the country or present in the state. For example, Wisconsin's identity and residency standards allow the presentation of a professional license, a canceled check, or a life insurance policy as proof of name and date of birth. DVS has noted applications that have been made in Minnesota within days of issuance of the Wisconsin license and the declaration of residency in Wisconsin. Patterns have also been noted by DVS of groups of apparently unrelated individuals applying for a Minnesota license, all with the same apartment number and residence address on their Wisconsin licenses. (*DPS exhibit 22*)

Restricting the issuance of the state driver's license or state identification card only to individuals who are U.S. born or naturalized citizens or who have been granted permanent residency status by federal authorities was rejected because some individuals with short-term admission status, but no residency status, would not be eligible for any state license or identity document.

The probable costs of complying with the proposed rules.

Individuals who are U.S. born or naturalized citizens who move to the state will not be able to use another U.S. state license or identification card to prove residency and, if they have not already done so for other purposes, may need to obtain a primary document. Persons who are legal immigrants, refugees or who have other federally-issued legal presence identification documents will continue to be able to present them and will not incur any additional expense.

Persons who have short-term admission status to be in the country will bear no additional expense at the time of initial application for a state document. The status check date on the state-issued document will expire when the period of short-term admission to the U.S. expires. If an individual receives federal approval to change admission status or extend their stay, then the individual will have to apply for another state document and pay a duplicate fee. The state-issued document for an individual with short-term admission to the U.S. will not be automatically renewable.

An assessment of any differences between the proposed rules and existing federal regulation and a specific analysis of the need for and reasonableness of each difference.

There are no federal laws or regulations on the issuance of a national identity card, or federal standards for proof of identity and residency prior to issuance of state drivers' licenses or identification cards. Federal standards for issuance of a commercial driver's license (CDL) found in the Code of Federal Regulations, Title 49, do not conflict with the proposed rules.

There are no federal laws or regulations with a direct bearing on driver's license or state identification card issuance, though Congress continues to work with AAMVA to consider uniform standards for states to follow.

Cooperation by state and local law enforcement with federal homeland security is authorized.

Reasonableness of the proposed rules.

7410.0100 DEFINITIONS.

Subp. 1a. **Commissioner.** It is necessary to add a definition of "Commissioner" to Chapter 7410 because the term is used repeatedly in these rules. It is reasonable to use the definition of "Commissioner" proposed in this subpart because it is the same as that contained in Minnesota Statutes, section 171.01, subdivision 11.

Subp. 1b. **Department.** Existing subpart 1a has been renumbered as subpart 1b to make room for the new definition of Commissioner. No change is proposed to the existing definition of Department.

7410.0400 DOCUMENTING PROOF OF NAME, DATE OF BIRTH, IDENTITY.

Subpart. 1. **In general.** It is necessary to delete subitem (3) of item C to eliminate the use of drivers' licenses, identification cards, and permits from other U.S. states and territories, the District of Columbia, and Canadian provinces that are current or not expired for more than one year as stand-alone identity documents because Minnesota can no longer rely on the integrity of the identity documents issued by other U.S. states or Canadian provinces. There is no uniform identity document policy that has been adopted by all states and provinces. Information gathered after September 11, 2001, clearly indicates that a few states continue to issue state identity documents to persons illegally present in the U.S. Individuals who are here illegally often go to the states, such as North Carolina and Utah, whose residency and identity requirements are less stringent than those of other states, before attempting to obtain a license in a state such as Minnesota. (*DPS exhibits 23 and 24*)

Some states, such as Wisconsin and Iowa, issue driver's licenses and identification cards onsite (instant-issue) at the department of motor vehicles (DMV) office and verify the application information later. Meanwhile individuals travel quickly out of that state and within days present the newly-issued documents in Minnesota. Minnesota cannot rely on other state-issued driver's licenses and identification cards across the board as an indication of U.S. citizenship, or authorized admission. It is reasonable to delete these items as stand-alone documents because U.S. citizens, immigrants, and non-immigrants possess or have the ability to obtain other documents necessary to prove identity and legal presence in the U.S. (*DPS exhibit 25*)

Subp. 2. Primary documents.

Item A. It is necessary to delete driver's licenses, identification cards and permits from other U.S. states and territories, the District of Columbia, and Canadian provinces that are expired for more than one year but not more than five years as primary identity documents because Minnesota can not rely solely on a license or card issued by another U.S. state or Canadian province to establish identity and lawful presence. It is reasonable to delete these items as primary documents because U.S. citizens, immigrants, and non-immigrants possess or have the ability to obtain other primary documents necessary to prove identity and legal presence in the U.S.

Deletion of the Canadian birth certificate as a stand-alone primary document is necessary because it does not indicate authorization to reside in or be admitted to the U.S. It is reasonable to make this change because a Canadian citizen legally present in the U.S. will have other documents to indicate lawful admission and identity. After consultation with the INS, language is inserted as Item F to address documentation that can be presented by Canadians who are present in Minnesota as under short-term admission status.

An amendment with respect to the Virgin Islands is proposed because it is necessary to clarify that it is the U.S. Virgin Islands, not the British Virgin Islands, which is referred to. It is reasonable to make this amendment because it makes clear, but does not change the meaning of the item. It is the U.S. Virgin Islands that is a U.S. territory.

Item B. It is necessary to delete Canadian adoption certificates as primary documents because they are not sufficient to establish authorized entry into the U.S. It is reasonable to make this change because persons lawfully present in the U.S. will have authorized admission documents issued by the U.S. government, such as a Canadian passport with the appropriate U.S. government admission stamps or admission form.

Item C. The proposed amendment is necessary because the Armed Forces of the U.S. is replacing its identification card (Form DD-2) with the more secure Common Access Card, both of which are considered a "Geneva Convention Identification Card." It is reasonable to accommodate the new form of Geneva Convention Identification Card, while continuing to recognize the existing card, because both documents are identification cards issued by the U.S. Department of Defense. (*DPS exhibit 26*)

Item D. It is necessary to eliminate a stand-alone Canadian passport as a primary identity document because it does not confer unregulated admission to the U.S. It is reasonable to make this change because Canadian passports are foreign country passports and as such will be accepted under item E, which requires additional appropriate authorized entry markings and documents issued by the federal government.

Item E. It is necessary to eliminate the exception to Canadian passports because of the change to Item D. This change is reasonable because an individual with a Canadian passport who is authorized by the federal government to reside in the U.S. and attests to Minnesota residency

needs to have the same authorized admission status document or stamp within the Canadian passport as an individual from any other foreign country.

Subitem (1) It is necessary to eliminate the specification of the "Immigration and Naturalization Service" from the rule and add the U.S. Department of Homeland Security because the functions of the INS were recently transferred to newly-formed DHS. Both documents previously issued by DOJ and those issued by DHS are currently valid. It is necessary to add the phrase "or authorized presence" to clarify that this document is also issued to refugees and others with indefinite or permanent residency status.

Item F. It is necessary to add this item to address Canadian residents without a passport who move to Minnesota as temporary residents. It is reasonable to make this addition because the documents specified are those that the INS has indicated they view for authorized entry into the U.S. when the individual does not have a passport.

Item G. It is necessary to make this change to ensure long-term coordination between federal policy and state agencies. It is reasonable because it mirrors the change in item E, subitem (1).

Subitem (4). It is necessary to amend this subitem to clarify that the permanent resident alien card must not be expired. It is reasonable to make this amendment because I-551 cards have expiration dates on them and are subject to renewal to maintain validity. (*DPS exhibit 25*)

Subp. 3. **Secondary documents.**

Item B. The amendments to item B are necessary to enhance public safety. States are enhancing the security features on their state-issued identity documents and a photo or digital image is a basic identity characteristic. Though some states may have previously issued a driver's license, identification card, or permit without a photograph, it is reasonable for Minnesota to no longer accept these as identity documents because they lack an essential means of verifying that they belong to the individuals who are presenting them.

In addition, a clarification is necessary that a driver's license, identification card, or permit from the U.S. Virgin Islands, not the British Virgin Islands, is an acceptable secondary document. It is reasonable to make this change because it mirrors the amendment proposed in subpart 2, item A of this part.

Item E. It is necessary to delete the reference to Canadian birth records because they are foreign country records and thus are acceptable as secondary documents under this item. It is reasonable to make this change because it is consistent with the amendment proposed in subpart 2, item A of this part. In addition, it is necessary to clarify that birth records from the U.S. Virgin Islands, not the British Virgin Islands, are not included. It is reasonable to make this change because it mirrors the amendment proposed in subpart 2, item A of this part.

Item J. It is necessary to require a school transcript to contain the applicant's legal full name to be accepted as a secondary identity document because the Department has experienced cases where a school district has changed the name of a student on a school-issued transcript because a parent demanded it when the name was not the student's legal name. Sometimes parents will divorce and want a child to assume the name of a stepparent, although they have not legally changed the child's name. It is reasonable to make this amendment so that the secondary document can be used to support the identity established in the primary document.

Subp. 3a. **Verification.** The Department often verifies the issuance of and validity of various documents presented by applicants for state documents. This is reasonable because it is the issuing jurisdiction or entity in the U.S. that knows best whether they issued a document and the

various security features of that document. Although the Department may be able to obtain translations of many foreign generated documents, the ability to validate their authenticity is difficult and in some cases where a government or country no longer exists – impossible. Department staff and licensing agents are not expert in the various identity documents generated by foreign countries, foreign states, and cities around the world. It is necessary to add this subpart because Department staff relies primarily on U.S.-based documents for primary identity documents and the expertise of U.S. officials who screen individuals initially for admission into the country.

7410.0410 PROOF OF RESIDENCY.

Subpart 1. Proof of residency required at time of application. This subpart is necessary to provide coordination between the concept of state residency and federal authorized presence standards. It is no longer reasonable to allow an individual to claim to be a resident of the state by merely attesting to a residence address on the application for a state driver's license, permit, or identification card when the individual isn't authorized to even be in the country. It is not reasonable that an individual be allowed to attest to a residence address in Minnesota to qualify for a driver's license, permit or state identification card if that individual is not authorized to be present in the U.S. Minnesota is proposing to adopt rules on residency to ensure that an individual who attests to being a resident of the state to obtain a state-issued identification document is legally present in the U.S. – that the individual may legally attest to residency within a state of the U.S. without misrepresentation. To coordinate state practices with national homeland security initiatives, the issuance process for Minnesota's drivers' licenses and state identification cards must not undermine federal authorized presence and admission standards.

The argument of some commentators on possible rules that the state will automatically be distinguishing between U.S. born or naturalized citizens and immigrants or refugees is not valid. The existing rules in 7410.0400 and the proposed rules make no distinction with respect to acceptable identity documents and residency documents for a license or state-issued identification card between immigrant, refugees, asylees, and U.S. born or naturalized citizens.

This subpart stipulates that in addition to attestation of a residence address on an application for a Minnesota driver's license, permit, or identification card, an individual will be required to present a document that also indicates authorized presence in the U.S. For most applicants, including immigrants, refugees, U.S. born or naturalized citizens, or asylees, the initial document presented as a primary document will be sufficient to prove residency. The various categories are described in the paragraphs that follow. (*DPS exhibit 27*)

U.S. citizens are individuals who are born in the U.S. or naturalized immigrants. In some cases a person may have a birth certificate issued by a U.S. Department of State embassy if the individual was born to U.S. citizens abroad. Persons who are U.S. citizens usually have a birth certificate issued by a U.S.-based government public health bureau or by a U.S. embassy for the birth of a U.S. citizen born abroad. In the case of individuals who immigrate to the U.S., they may become naturalized U.S. citizens and will have a DOJ- or DHS-issued naturalization document. Persons who are immigrants usually do not present their naturalization papers because they are issued state licenses much sooner based on presentation of an I-688 or I-766 work authorization document or an I-551 permanent resident identity document. The Department has accepted and will continue to accept the non-U.S. citizen documents that are likely to be presented by immigrants. These documents are currently listed in part 7410.0400, subpart 2 as primary identity documents.

Some individual commentators have asserted that the Department is creating a separate class of non-citizens for purpose of issuance of state drivers' licenses or identification cards. This is not

true. Immigrants receive state-issued licenses that are indistinguishable from licenses issued to U.S. citizens. U.S. citizenship is not a requirement to receive a state document.

Permanent U.S. residents are persons who have been allowed to immigrate to the U.S. by the federal government with the presumption that they will continue to be permanent U.S. residents and possibly become U.S. citizens. These immigrants are initially issued I-551 cards. These individuals usually will not return to their former home country to live permanently. Many eventually become naturalized U.S. citizens, but that process may take years. In the meantime, they are lawfully present, are described by U.S. authorities as permanent residents, and have U.S. government resident status.

Some individuals choose not to become U.S. citizens. They still are considered permanent residents of the U.S. The Department considers them eligible to declare residency in the state and accepts the primary permanent resident or work authorization documents presented when applying for a Minnesota driver's license, state identification card, or permit. Documents usually presented for identification by permanent residents are currently listed in part 7410.0400, subpart 2, as primary documents.

The phrase "**indefinite authorized presence status**" is used to describe persons who have been lawfully admitted to the U.S. and their eligibility to remain in the country depends on a number of factors agreed to between the individual and the federal government at the time of admission. Sometimes an individual is admitted to study in the U.S. and the criterion is that the individual remain enrolled in and be successfully completing a particular course of study at an approved educational institution. These individuals have not been granted permission to immigrate as permanent residents to the U.S., but may reside here for an extended period of time during their course of study. They will have documents issued by the federal government to indicate their lawful admission status and duration. Sometimes the individual's status changes from indefinite to permanent residency status. The decision on the individual's status to remain in the country or to reside in the U.S. lies with federal authorities.

Refugees are admitted under a permanent resident status and are eventually issued I-688, I-766 or I-551 cards. Refugees are persons who usually do not have a country to return to. The proposed rules will not limit the issuance of a driver's license or a state identification card to refugees. They are granted state documents under the existing rules in Chapter 7410 and will be granted state documents under the proposed rules.

Refugee status differs from persons seeking **asylum**. Someone seeking asylum may or may not be permitted to stay in the U.S. The individual may be granted temporary permission to stay in the country while a request for asylum is being considered. Other individuals may be denied permission to even be present in the country or may be detained pending a decision in the case. An individual granted asylum, or granted permission to remain in the country while a request for asylum is being considered, will have documents issued by the DOJ or DHS. That document will be among those listed as a primary document and will be accepted. Federal authorities are aware of the individual's presence, have identified the individual, and made an initial determination that the individual may continue to remain on U.S. soil.

Some parties have commented that the proposed rules jeopardize the ability of persons seeking asylum to secure a state-issued document. The Department does not believe it reasonable to issue state documents to be used for identity as well as a presumption of residency to any individual that may be present in the state. Some individuals or groups may harbor persons who arrive illegally in the country. It is not the Department's role to make the decision for federal authorities as to whether an individual may be legally present or to determine that person's identity. The Department does believe it is its proper role to cooperate with federal authorities and not issue

state documents inferring state residency to an individual not authorized by federal authorities to be present in a state in the U.S.

Lawful short-term admission status covers a variety of admission categories developed by the federal government to allow persons to legally enter the U.S. A person may be given permission to enter the country for a limited period – sometimes years – to work, to give a series of lectures at a university, to play hockey, to perform a concert, or to undergo medical treatment. Sometimes the individual is granted permission to set foot in the U.S. for only a matter of hours. In all cases, these individuals have been screened by federal officials and given a U.S. government-issued admission document indicating lawful admission – lawful presence. Minnesota Rules, part 7410.0400, subpart 2 identify the short-term primary documents required as part of the state license application process.

On the subject of **visas** on which the Department received comment prior to proposal of these rules, the Department notes that there is confusion over visa status and the use of that term to indicate lawful admission into the U.S. The media has purported that an individual's state-issued document will expire when the visa issued to enter the country expires. The proposed rules do not link expiration of the state-issued document to the date on a visa. A visa is issued to an individual overseas authorizing the individual to enter the U.S. However, the key document for purposes of legal admission is not the visa but the entry document or admission stamps issued by U.S. immigration authorities. At the entry point an individual is checked for admission. Sometimes an individual may have a visa to enter the country, but an individual may not be permitted entry and not issued lawful admission documents if U.S. officials at a port of entry determine that entry is not appropriate. The Department defers to federal authorities on this issue and cites the lawful admission documents in the proposed rules.

Subp. 2. Proof of residency at renewal.

Item A. Because persons are admitted to the U.S. who are not granted permission to reside in the country permanently, the Department believes that it is necessary to propose a policy to address the issuance of a driver's license, permit, or identification card for these individuals who are not U.S. citizens, are not immigrants, refugees or asylees, and therefore, do not have permanent resident status. It is not reasonable that a driver's license, permit, or identification card once issued to a person who is authorized to temporarily be present within the country, to temporarily be in the country, can be automatically renewed or must be issued for a period that exceeds the time period the individual is authorized to be present. The state does not have authority to grant residency within the state beyond the period an individual is authorized to be present in the country. To take such a position would grant to the state power that it does not have. It cannot be presumed that a license based on being a resident of the state can be automatically granted or extended beyond the time the individual has permission to be in the country.

Item B. It is necessary to require an individual who is a U.S. citizen, or who has permanent resident or indefinite authorized presence status, to attest to state residency at the time of renewal or replacement. It is reasonable to allow an attestation rather than provide proof of lawful presence at the time of renewal or replacement because that documentation was produced at the time of initial application and there is an ongoing presumption of U.S. residency or U.S. citizenship. By the same token, persons who are immigrants, refugees, or who have been granted asylum will usually not be returning to their country of origin as residents and have been granted permanent or indefinite status by the federal government.

Item C. For persons with short-term admission status, there is no presumption of permanent U.S. resident status. Therefore, at the time of application for a driver's license, permit, or identification card, it is necessary to require the individual to produce documents to confirm

permission to be in the country. It is not reasonable to issue a permanent state document based on residency in the state to an individual who has temporary federal permission to be in the country or who has exceeded the time period of permission to be in the country.

Subp 3. Documents not sufficient to prove residency. It is necessary to exclude the use of drivers' licenses, identification cards, and permits from other U.S. states and territories, the District of Columbia, and Canadian provinces for the purpose of proving lawful presence in the U.S. because Minnesota cannot rely on other state-issued documents across the board as an indication of authorized presence or lawful admission. There is no uniform identity document policy that has been adopted by all states and provinces.

Subp. 4. Documents sufficient to prove residency. It is necessary to define the documents that are acceptable to prove residency so that all applicants are treated fairly and issuing procedures are uniformly administered with respect to determining residency. It is reasonable for the Department to link its residency requirements to the primary documents required to prove identity because, after consultation with the DOJ, the Department believes an individual who is legally present in the U.S. should have or be able to produce a primary document listed in part 7410.0400, subpart 2. If an individual is not present in the country legally, the individual will not have a document listed in part 7410.0400, subpart 2. In some cases, the primary document issued to individuals with short-term admission status does not list the date that the admission period ends or the date has been extended, but is not reflected on the primary document. It is reasonable to require the applicant to present additional documentation to clarify the duration of status.

Subp. 5. Evidence required when name changed. This subpart is necessary for clarification. If an individual's name changes during their stay in the U.S., particularly during a period of short-term admission, the individual must present a document as specified in part 7410.0500, to indicate a name change. For example, an individual here on short-term admission may marry. It is reasonable to require the individual to bring a document to the Department that supports the name change as a result of the marriage.

Subp. 6. Lawful short-term admission status. This subpart is necessary to delineate the Department policy for issuance of a license to a person who has no federal residency status – no permission from the U.S. to permanently reside in the country. This individual may be legally present in the country and in the state – often as a visitor, tourist or student. There is a need to correlate the individual's federal legal presence status with state residency requirements.

Item A. It is necessary to specify what the Department policy is for issuance of a license to an individual who has no permanent U.S. residency status and thus is not eligible to permanently reside in the U.S. or in Minnesota. The individual may have a valid federally-issued admission document at the time of application, but the individual has not been granted permission to immigrate to the U.S.

Federal temporary admission status periods range from hours for crewmembers docking in Duluth, to months for visitors, to years for some workers or students. It is reasonable to establish a policy for issuance of a license that coincides with the federal lawful admission period and does not exceed it. The Department proposes 30 days as the cut-off period for issuance of a license to someone making application for a state card who has that amount of time or less left to remain in the U.S. It takes time to process and issue a license. Issuance involves various audit functions, verification of information on an application, checking driver records, verifying the validity of the identity documents presented, and producing and mailing the card. The Department believes 30 days is a reasonable timeframe to ensure receipt of a license before the lawful admission period ends.

At Congressional hearings in spring of 2002, the INS commissioner testified that 75 percent of tourists are in the U.S. for stays that do not exceed 30 days. Since September 11, 2001, DVS has noted hundreds of cases of applicants for a Minnesota license who provided federal admission documents that were due to expire within days of the application.

State law anticipates the use of a foreign country license by tourists and visitors to drive temporarily while in the state. An individual from a foreign jurisdiction is permitted to drive under state law in Minnesota on the foreign jurisdiction license. Under Minnesota Statutes, section 171.03, clause (3):

A nonresident who is at least 15 years of age and who has in immediate possession a valid driver's license issued to the nonresident in the home state or country may operate a motor vehicle in this state only as a driver.

Clause (3) allows a person from another state or country who is not a resident of Minnesota to drive while present in the state. It is only when an individual establishes residency in the state or declares residency that state licensure is needed. Under Minnesota Statutes, section 171.03, for example, a person possessing a commercial driver's license issued by another state must apply for a state driver's license within 30 days of becoming a resident of the state.

"Nonresident" in Minnesota Statutes, section 171.01, subdivision 9, is defined as "anyone who is not a resident of the state." Resident of the state is not further defined.

The Department considered limiting issuance of a state license only to persons who are U.S. citizens or who have been granted permanent U.S. residency status by the federal government. The Department proposes to extend the issuance of a license to persons legally present in the U.S. who do not have permanent resident status. Taking this course of action, however, given the use of the state-issued document not only to drive, but to engage in commerce and essentially blend into American society, means there must also be some mechanism to cancel the state-issued document once the temporary admission period expires. The license would contain a status check date for the period of lawful federal admission. This date would be the same as the "valid until" date on the federal short-term admission document presented at the time of application for the license. In those instances where the date is not indicated, such as for a student who has a "duration of status" indication on an I-94 card in a home country passport, the status check date would coincide with the date on an I-20 form completed by a DOJ- or DHS-authorized post secondary school.

Item B. The Department has documented numerous instances of individuals presenting a federal document as a primary identification document to obtain a license and the legal admission date on the federal document is expiring in less than four years. State driver's licenses are issued for a four-year period and then are subject to renewal. It is not reasonable for the state to issue a license to an individual whose authorization to be in the U.S. is expiring by the time the state document would be issued. The state-issued document may be used to evade federal requirements to leave the country. Because the state document can be used not only to drive, but is also used to engage in commerce, the document may be used to circumvent federal law and perpetrate fraud. State-issued identification documents have been used to board airplanes to evade law enforcement authorities. An individual who does not have valid authority to be in the U.S. after 30 days, should have no need for a state-issued license. It is presumed the individual will no longer reside in Minnesota – will no longer be present in the U.S.

Even if the individual is informed that no permanent state document will be issued, some individuals will want to make application for the state document or may be in the process of requesting authorization for extension of their legal presence. If this occurs, the state will accept

payment, but will only issue a receipt. This is reasonable because the receipt confers temporary driving privileges when all licensing requirements have been met.

Subp. 7. No lawful admission status. It is necessary to prohibit issuance of a license to an individual who has no lawful admission status to the U.S., who has entered the country illegally or overstayed the federally-authorized lawful admission period, based only on presence in the state or a declaration of state residency. It is not reasonable for the state to issue a license based on declared residency in the state, when the individual has no federal documentation indicating lawful federal permission to be present in the U.S. This individual will not have a valid primary document as specified in part 7410.0400 indicating lawful admission or lawful presence in the U.S.

Subp. 8. Status check date. Under Minnesota Statutes, section 171.06, subdivision 3, the commissioner may request information for the state-issued license and place this information on the document. Driver's licenses and identification cards routinely contain a photo image and personal descriptive information such as height, weight, sex, eye color, and date of birth. Certain restrictions such as "corrective lenses" are noted. It is reasonable that an individual whose legal presence status in the U.S. is to expire during the period of licensure have that fact noted on the state-issued document. It is necessary because this state-issued license is used for purposes other than driving. It is used to cash checks, enter federal buildings and board airplanes. Only 0.45% of all applications have been issued with a status check date.

Subp. 9. Reissuance. It is necessary to allow for reissuance because there are some federal status categories that may be extended by federal authorities after the individual is lawfully admitted to the U.S. Sometimes a student is accepted to graduate school and requests a federal extension to continue studies. Work authorization may be extended. An individual may marry a U.S. citizen and then request a change in status. It is reasonable to accommodate extensions or changes of status because these people have been authorized by DOJ or DHS to continue residing in the U.S. by meeting federal requirements to remain in this country legally.

If federal authorities accept application for an extension or change of status, the individual is issued a formal Notice of Action indicating the change. The extension date is indicated or the change in status is indicated on this federal notice. An alternative to proof of an extension is a reissuance of the federally issued work authorization card such as the I-688B.

Item A. This item is necessary because sometimes an individual has requested a change of status from federal authorities and has been authorized to remain in the U.S. while the request is being considered. It is reasonable to extend the status check date six months if the individual presents an accepted application for extension of status, while the decision to extend or change the status is under review by federal authorities.

In May 2002, INS Deputy District Director John B. Klow indicated to DVS that it can take up to six months for federal authorities to review and rule on applications for extension or change of admission status. Many federal admission status categories cannot be extended. They are for a limited admission period only. In those cases, federal officials will not accept an application to extend the lawful admission period. The individual will not receive a receipt or Notice of Action document.

Item B. Sometimes the status of an individual changes from short-term admission to permanent residency. For example, the individual may marry a U.S. citizen and be granted permanent residency status. It is necessary for the state to issue a state license with no status check date upon presentation of a permanent residency document in order to comply and be consistent with federal residency requirements.

Subp. 10. **Cancellation; denial.** The commissioner may cancel drivers' licenses under the provisions of Minnesota Statutes, section 171.14 and Minnesota Rules, part 7409.2800. Cancellation differs from suspension, revocation or disqualification of driving privileges in that no additional fees are levied for reinstatement and no specific withdrawal time period is set. Cancellation occurs when the applicant no longer qualifies for the license or the applicant fails to comply with department requests to provide proof of continued qualification for the license. Such situations as payment of a required application or reinstatement fee with a check that is subsequently dishonored, failure to surrender an out-of-state driver's license when a Minnesota license has been issued, or failure to submit proof of driving privilege clearance in another U.S. state, may result in cancellation. Reinstatement to a valid status occurs when the department receives proof of the person's qualification for licensure.

Under the provisions of Minnesota Statutes, section 171.04, the commissioner may cancel the driver's license of any person who, at the time of cancellation, would not have been entitled to receive a license. Under clause (10), the commissioner may determine that a person whose authority to be present in the U.S. beyond the status check date now may pose a threat to public safety. By remaining in the U.S. beyond the period of lawful admission the individual is demonstrating an unwillingness to comply with the laws of the country. It is necessary to cancel the license because the individual no longer has permission to reside in or be present in the U.S. It is reasonable that the individual should no longer be entitled to possess a valid state-issued identity document based on a declaration of residency in a state of the U.S.

Item A. It is reasonable and necessary that the cancellation occur on the status check date because that is the date federal authorities have indicated the individual is to depart from the U.S.

Item B. It is reasonable and necessary that an individual who had valid legal presence status, but is subsequently deported from the U.S., also have the state-issued document cancelled. An example of this situation is the individual who was issued a state license, deported from Minnesota for violent behavior, used the state license to reenter the country, and then raped and murdered a 14-year old girl in Mankato. Once federal authorities deport an individual from the country, it is not reasonable for the individual to have a valid state-identity document based on state residency.

Subp. 11. **Warning notice of possible cancellation.** It is necessary to provide due process and provide notice to the individual holding a valid state-issued license that the commissioner will cancel the document on the status check date. A warning notice is reasonable because it provides the individual with an opportunity to bring in further information to the Department in a timely manner to obtain an extension of the date. If the individual is making application and the admission authority expires in more than 60 days, there is opportunity for the Department to mail the warning notice. If the lawful admission period is for 60 days or less at the time of application, the Department will provide the applicant with a general warning notice at the time of application that explains the cancellation process that will occur unless an extension is obtained.. A notice containing the information specified in items A and B will shortly follow by mail. The Department is not able to generate a notice with the specific information delineated in items A and B at all application sites without imposing a time delay on other customers.

The notice will contain the identifying information listed in item A. This information is the same as that contained on other cancellation notices issued to drivers when the Department is going to cancel or withdraw for other reasons. Item B is reasonable because it indicates what action shall occur and what action the document holder must take to prevent cancellation. The document holder is offered an opportunity for an administrative review. This review, described in part 7409.4600, is provided to all drivers in the state who are facing a loss of driving privileges. The Department is proposing to extend the review not only to drivers but also to

individuals facing a loss of a state-issued identification card. The review provides an opportunity to review the facts of the situation on a case-by-case basis.

Subp. 12. **Cancellation order.** This subpart is necessary to provide a process for notice to the individual holding a license of the impending cancellation. The process is similar to that used whenever driving privileges are being withdrawn. It is reasonable because it gives the affected party the opportunity for a second review of the pending action and provides an opportunity to bring forth new facts or information. Part 7409.4600 provides the procedures for requesting the administrative review.

Subp. 13. **Administrative review.** Part 7409.4600 is necessary because it provides a standard process for an administrative review of the loss of driving privileges. The review is available when an individual has lost or is soon to have privileges withdrawn. It is reasonable to use the same process when the driver's license or permit is subject to cancellation, which is a form of driving privilege loss. The administrative review would also be available for cancellation of the state identification card when the status check date expires. It is reasonable to provide for an administrative review because it provides the document holder with an opportunity to present new information or facts that could result in an extension or removal of the status check date.

Subp. 14. **Fees.** This provision is necessary to administer the current fee schedule for state documents delineated in Minnesota Statutes, section 171.06. State fees are charged to an individual who applies for a new state document, renews a state document, or seeks to obtain a duplicate document. Where there is a change of name, address, endorsement or indicator (such as adding or removing a donor designation) the Department charges a duplicate card fee.

Item A. The Department proposes to waive any fee for a duplicate card for an individual who needs to change the status check date on the state-issued document when an extension is granted by federal authorities. However, the application must be made before expiration of the date on the state document.

Item B. If application is not made before expiration and the document is cancelled, then the applicant will be charged the fee specified in law for a duplicate card (currently \$8). This is reasonable because the department incurs costs associated with this transaction.

Item C. If the license itself is due to expire, the renewal fee is charged. This is reasonable because this is the fee that would normally be due at this stage of the card's life.

Subp. 15. **Variance.** DVS currently has in place procedures and criteria for consideration and approval of a variance to adopted standards. These procedures and criteria are contained in part 7410.0600. They have been routinely employed to consider case-specific alternatives to the identity document standards in parts 7410.0400. DVS believes it is also reasonable to extend these procedures and criteria to the residency rules in 7410.0410 as well. Individual circumstances vary. DVS has been presented with situations where a courthouse was destroyed by flood, fire, or tornado and official documents have been lost. Other means to verify identity, or in this case authorized presence status, have been employed with the assistance of other state and federal officials.

The Department held over ten meetings with immigrant-serving organizations and other federal organizations during the summer of 2002, to discuss case-specific situations that may need to be addressed through a variance or in the procedures developed to implement these permanent rules. Meetings and outreach activities are on going.

7410.1810 DRIVER'S LICENSE AND IDENTIFICATION CARD IMAGE.

Subpart 1. **Image.** This subpart is necessary to eliminate any exception to the requirement for a facial image on the state driver's license and state identification card. The facial image is a critical security and identity feature on the state-issued document. Descriptive information such as height, weight and eye color is not precise. A signature can be forged. These state documents are used by law enforcement to determine identity in traffic control situations, but also for purposes other than driving. They are used for admission to businesses, government buildings and transportation systems. The Department, at this time, does not have the ability to capture or utilize any other biometric identifier, such as a fingerprint, which could be used as a unique identifier in place of a facial image, nor do all retailers and others who rely on the card for identification possess the equipment necessary to make use of such technology. (*DPS exhibit 21*)

The facial image must capture the full face of the applicant. An individual may not cover all or a part of their face. A full facial image is necessary to identify the person. Some parties wear a covering over all or part of the face when in public. Many persons who apply for licensure who follow social or religious customs requiring that all or a portion of the face be covered while in public, present federal legal presence identity documents that show a full facial image. It is reasonable to expect that these same individuals will consent to having a similar image taken for the license. The Department will afford as much privacy as possible when capturing the image of these individuals. The Department requires the adjustment of headwear, such as a baseball cap with a brim that shades the face, when the headwear is of a size or type that obscures the person's face.

The Department does not intend that all head coverings be completely removed. A head covering must be removed to the extent that it cannot cover the face. The Department has held meetings and discussed the standards used by staff in taking full-face images with religious and community organizations to understand their religious beliefs and objections. (*DPS exhibit 28*) Photos have been submitted by religious groups that the Department has distributed to staff as appropriate representations to consider in implementing the full-face image requirement. Federal identity documents such as a passport or I-688B card contain a full facial image, as do many other identity documents. (*DPS exhibit 25*)

Subp. 2. **Use of previous image.** This subpart is necessary to clarify when and how file images will be used and to address the situation where an individual is not present in the state at the time a license, permit or state identification card is subject to renewal or duplication.

Items A. and B. Department practice has been to use the most recent image on file as a security measure when the applicant is applying for a duplicate license or replacing an unexpired instruction permit that has been lost or stolen. This practice prevents an unauthorized individual from getting an authentic license with his/her picture and someone else's identifying information.

Item C. Department practice has been to renew an expired card through the mail using the existing file image if the applicant is temporarily out of the state. Temporarily out of the state is construed to be for a period of less than four years.

The Department must maintain a reasonably current image on file in the record of the document holder. One renewal cycle as specified in item C is reasonable because it provides for an image that is current to within eight years. An image valid for eight years is within the range for which other federal identity documents are valid. A U.S. passport is valid for a period of up to 10 years.

Item D. The use of the file image provides a secure means to verify the identity of an individual who is already in the license database who has lost their license or had it stolen.

Subp. 3. **Updated image required upon return.** The provision for issuance of a state document when the individual is temporarily out of the state has been used to accommodate "snow birds" – persons who reside for most of the year in Minnesota but live in a warmer state or

country during the winter. It is also used to accommodate persons who may have an extended vacation, work assignment or study abroad, are in the Peace Corps or are serving as missionaries.

This provision would not accommodate the needs of a foreign national who has an expired status date on the state document and leaves the country. A duplicate state document would not be issued.

REPEALER. Minnesota Rule part 7410.1800 Driver's License Photograph is proposed for permanent repeal. This rule part provides for issuance of a driver's license without a photograph if there is a religious objection to being photographed. It is necessary to repeal this part because the facial image is a critical security feature of the document. It is reasonable to eliminate this part because there is no provision for a method of identification in lieu of a facial image. The state at this time does not have the ability to capture or utilize any other biometric identifier, such as a fingerprint, which could be used as a unique identifier in place of a facial image. Based on the number of licenses issued by the Department, a very small portion of those applying for drivers' licenses hold legitimate beliefs against the use of photography for this purpose. Very few states issue a license without a photo. (*DPS exhibit 29*) In a recent DOJ memo on the topic of waiving the requirement for a photograph on immigration forms based on religious grounds, Johnny N. Williams, Executive Associate Commissioner, stated, "...in light of national security concerns arising from the events of September 11, 2001, and because Form I-551 is evidence of legal status to enter and remain in the United States, the potential for misuse were it issued without a photograph is too great..." (*DPS exhibit 30*)

AGENCY REPRESENTATION:

The Department proposes to adopt these proposed rules with a public hearing. The following persons will represent the Department at the public hearing.

Richard W. Stanek, Commissioner, Minnesota Department of Public Safety.

Sara Schlauderaff, Deputy Commissioner, Minnesota Department of Public Safety

Patricia McCormack, Acting Director, Division of Driver and Vehicle Services.

Denise Adams, management analyst, Driver and Vehicle Services Division.

Jane Kaufenberg, office services supervisor, Driver and Vehicle Services Division.

Jane A. Nelson, rules coordinator, Driver and Vehicle Services Division.

WITNESSES:

At this time, the Department has not identified any individuals upon whom it intends to call as witnesses for the Department.

Date:

4/8/03



Richard W. Stanek, Commissioner
Minnesota Department of Public Safety

4/8/03

**Proposed Permanent Rules
SNR Exhibit List**

1. Public Safety Department – Agency Profile, *State of Minnesota 2004-05 Biennial Budget, Page 1*.
2. American Association of Motor Vehicle Administrators, *Business Requirement for the Unique Identifier* (August 9, 2002).
3. Office of the Revisor of Statutes, Administrative Rules, *Adopted Exempt Rules Governing Drivers' Licenses and Vehicle Records; Proof of Identity and Residency* (May 30, 2002).
4. *Findings and Statement of Supporting Reasons*, Adopted Exempt Rule filed June 3, 2002, with the Office of Administrative Hearings.
5. *Statement of Supporting Reasons for Exempt Rules, Attachment A*, filed June 3, 2002, with the Office of Administrative Hearings.
6. Charlie Weaver, Director of Minnesota's Office of Homeland Security, letter to the Honorable Kenneth A. Nickolai, dated June 4, 2002.
7. Charlie Weaver, Commissioner, Department of Public Safety; Director, Minnesota Office of Homeland Security, letter dated June 14, 2002, to the Honorable Kenneth A. Nickolai.

Attached articles confirm the support of the White House Office of Homeland Security and specifically Homeland Security Director Tom Ridge, for these proposed rules linking the expiration of the driver's license with the expiration of an applicant's visa as one way to prevent future attacks....

Terrorists have discovered a dangerous weakness in our current system. If a foreign national legally enters the United States on a visa, but overstays the expiration of this visa, there is little chance he will be caught. Our government simply lacks the resources to keep track of these individuals. Unfortunately, obtaining a driver's license – the primary identity document in this country – with an expiration date well beyond the date of legal stay, further masks their illegal status and allows potential terrorists to move freely about this country with little fear of detection or apprehension.

While strengthening driver's license residency and proof of identity requirements cannot single-handedly stop future attacks, they will limit the ease with which terrorists can travel and operate in American cities.

8. State of Minnesota Court of Appeals decision on exempt rules.

9. Charlie Weaver, Guest Columnist, *Driver license change will aid police, ensure integrity of state-issued IDs*, St. Paul Pioneer Press, 2002.
10. Minnesota Department of Public Safety, *2003 State Legislation/Executive Action Requiring Proof of Legal Presence and Linking Driver's License Expiration with Visas*, Updated 3/24/03.
11. William Matthews, Federal Computer Week, *Ridge: Link driver's license, visa posted* March 15, 2002.

The Office of Homeland Security is urging states to establish tighter control over foreign visitors by issuing driver's licenses that expire when visas expire...The office is drafting model legislation to require that driver's licenses issued to non-citizens be tied to visas...

In a conference call with state officials March 7, Ridge told state emergency management officials that he hopes motor vehicle departments can be electronically linked to databases maintained by the federal Immigration and Naturalization Service. That would enable state workers to check the immigration status of foreign nationals who apply for driver's licenses and issue licenses that would expire when visas expire...

Such capability also could enable the state to help keep better track of visiting foreigners...

By coming up with their own standards, Ridge said, the governors would avoid having standards forced on them by Congress...

Driver's licenses became a source of concern after the Sept. 11 terrorist attacks because most of the terrorists used such licenses – obtained legally and illegally – for identification...

The American Association of Motor Vehicle Administrators is pressing Congress to pass a law requiring states to adopt more uniform standards for driver's licenses and stricter procedures for issuing them...

12. *Traffic Law Conference* notes, American Association of Motor Vehicle Administrators; Linda Lewis, president and CEO (August 3-7, 2002).
13. Roger Cross, Administrator of Wisconsin Division of Motor Vehicles, on behalf of the American Association of Motor Vehicle Administrators, statement of oral testimony before the U.S. House Transportation and Infrastructure Subcommittee on Highways and Transit, September 5, 2002.
14. Steve F. Turza, special agent, U. S. Department of Justice, Immigration and Naturalization Service, *G-392 Intelligence Report* dated 12/12/2001.

At this point in the investigation it has been determined that 165 legitimate licenses have been issued to suspected illegal aliens, deported aliens, and other subjects with criminal records. It is expected that this number will increase as the investigation progresses...

The following is a partial list of Colorado Drivers Licenses that have been suspended as a result of this investigation. If an agency intercepts one of these licenses it is requested that they confiscate the license and contact...

15. Report of the National Commission on Terrorism, Pursuant to Public Law 277, 105th Congress, *Countering the Changing Threat of International Terrorism*.
16. Gray Davis, Governor of California, *AB 60 and SB 804 veto message*, http://www.governor.ca.gov/state/govsite/gov_htmlprint.jsp, posted 09/30/2002.
17. U. S. Department of Justice, Immigration and Naturalization Service, web site, <http://www.ins.usdoj.gov/text/services/visas.htm>, *Immigration Classification and Visa Categories*, Last Modified 9/17/2002.
18. Office of Homeland Security, *National Strategy for Homeland Security*, July 2002.
19. The Federation for American Immigration Reform, *World Trade Center and Pentagon Terrorists' Identity and Immigration Status*, <http://www.fairus.org/html/04178101.htm>, posted 10/01.

Several of the hijackers (the four or five pilots) had been in the United States for extended period, although none was a legal permanent resident. Some had received more than one temporary visa, most of which were currently valid on September 11, but at least three of them had fallen out of status and were, therefore, in the United States illegally... There are indications that the identity of at least some of the hijackers may have been assumed based on stolen identity documents.

20. Mary Beth Sheridan, of the Washington Post, *U.S. visas easy to get in Saudi Arabia*, St. Paul Pioneer Press October 31, 2001.

The 19 terrorists all obtained tourist or business visas in U. S. consulates abroad...

21. American Management Systems, Inc., *Establishing a National System for State-issued Secure Personal Identification* dated 2001.

Law enforcement experts estimate there are over 240 valid driver's license formats in circulation today, making knowledgeable visual authentication based on license characteristics an impossible task to the average person presented with an ID...

In a secure identification program, source documents (often referred to as "breeder" documents) are not accepted at face value but are verified against their source data.

States will need to adopt alternative procedures for delayed issuance of permanent licenses when further verification is needed or source data is not available.

The government functions of citizenship/identity/border control must take top priority.

22. Wisconsin Department of Transportation, Division of Motor Vehicles, Driver License web site, <http://www.dot.state.wi.us/dmv/drivrlc.html>, *Application Requirements*, last modified October 8, 2002.
23. North Carolina Department of Transportation, Division of Motor Vehicles web site, <http://www.dmv.dot.state.nc.us/driverlicense/faq/>.
24. Utah Department of Public Safety, Driver License Division web site, <http://driverlicense.utah.gov/faqs.html>, *Obtaining a Utah Driver's License*, copyright © 2001.
25. U. S. Department of Justice, Immigration and Naturalization Service, document samples, *INS Document lists A and C*.
26. Linda D. Kozaryn, American Forces Press Service, *DoD Issues Time-saving Common Access Cards*, http://www.defenselink.mil/news/Oct2000/n10102000_2000101007.html, posted October 10, 2000.
27. U. S. Department of Justice, Immigration and Naturalization Service, Office of Policy and Planning Statistics Division, *Annual Report, Legal Immigration, Fiscal Year 2000* Number 6, January 2002.
28. E-mails to Charlie.Weaver@state.mn.us, on the head covering issue, from September 2 to 11, 2002.
29. American Association of Motor Vehicle Administrators, *Exemptions to Driver's License Photos, Poll – July 2002*.
30. U.S. Department of Justice, Immigration and Naturalization Service, Memorandum for Regional Directors, *Waiver of Photograph for I-90, Applicants Seeking a Replacement or Renewal Form I-551*, February 14, 2003.